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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,613	11/07/2001	Lawrence A. Blaustein	PRG 2 0013	4750

7590 02/02/2004
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EXAMINER

COLE, LAURA C

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,613

Applicant(s)

BLAUSTEIN ET AL.

Examiner

Laura C Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 01132003. 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Figure 11 (Claims 1, 4, and 10) in Paper No. 12222003 is acknowledged.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "1018" has been used to designate both a pin (Page 8 Lines 15 and 20) and a first side (Page 8 Lines 5 and 6) and reference character "1118" has been used to designate both a pin (Page 9 Line 20)) and a first side (Page 9 Lines 7 and 8). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities:
Page 4 Line 9 the term "gear tooth" has been repeated and it appears as if the second "gear tooth" should be replaced with the term "cam" (See example on Page 4 Line 10).

Appropriate correction is required.

Claim Objections

4. Claim 10 is objected to because of the following informalities:

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Claim 10 uses the term "the second *brush section*" (one occurrence is in Line 2) and the term "the first *brush section*" (Line 6), however in Claims 1 and 4 the Applicant uses the terms "first *bristle holder*" and "second *bristle holder*". If "second *brush section*" and "second *bristle holder*" ("first *brush section*" and "first *bristle holder*") are intended to be referring to the same structure, the Applicant needs to be consistent with the terminology. If they are not the same structure, the Applicant must provide antecedent basis. Examiner is regarding "bristle holder" and "brush section" to be the same structure.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "the motor" in Line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 4, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Mei, USPN 5,617,603.

Mei discloses the claimed invention including a handle at a first end of the toothbrush and a head (13, 23) at a second end, a rotatable shaft extending from the handle to the head (6; Column 2 Lines 49-51) having a longitudinal central axis (see Figures 2-3), a first bristle holder (3) mounted with a first pivot (34) and associated with the remote end of the shaft (Figure 3), the remote end of the shaft being received in a slot (33) of the first bristle holder, and a second bristle holder (4) mounted to the head and engaged by a rigidly mounted portion of the first bristle holder (5). Mei discloses that the rigidly mounted portion is a pin and the second bristle holder includes a pivot (43) being approximately centrally located relative to the second bristle holder, and the second holder including a slot on the side thereof (42). In operation a motor rotates the shaft and the first brush holder is driven in an oscillatory manner causing the pin to cyclically engage the walls of the slot thereby driving the second brush section (Column 2 Lines 15-31, 49-61; Claim 1).

7. Claims 1, 4, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Prineppi, US 2003/0066145.

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Prineppi discloses the claimed invention including a handle (2) at a first end of the toothbrush and a head (3, 4, 5) at a second end, a rotatable shaft extending from the handle to the head (14) having a longitudinal central axis (see Figure 4 "A"), a first bristle holder (8) mounted with a first pivot (12) and associated with the remote end of the shaft (Figures 2-6), the remote end of the shaft being received in a slot (18) of the first bristle holder, and a second bristle holder (10) mounted to the head and engaged by a rigidly mounted portion of the first bristle holder (19). Mei discloses that the rigidly mounted portion is a pin and the second bristle holder includes a pivot (13) being approximately centrally located relative to the second bristle holder (see Figures), and the second holder including a slot on the side thereof (20). In operation a motor rotates the shaft and the first brush holder is driven in an oscillatory manner causing the pin to cyclically engage the walls of the slot thereby driving the second brush section (Paragraphs 6-9).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1300.

LCC

LCC

22 January 2004



ROBERT J. WARDEN, SR.
SUPERVISORY PATENT EXAMINER
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